Appendix.

Jurisdiction of Petition for Writ of Certiorari.

United States Code, 1940 Edition, Title 11, sec. 47 (c):

The Supreme Court of the United States is hereby vested with jurisdiction to review judgments, decrees, and orders of the Circuit Courts of Appeals of the United States and the United States Circuit Court of Appeals for the District of Columbia in proceedings under this title in accordance with the provisions of the laws of the United States now in force or such as may hereafter be enacted. (July 1, 1898, ch. 541, § 24, 30 Stat. 553; Feb. 13, 1925, ch. 229, §§ 1, 5, 13, 43 Stat. 936, 939, 941; May 27, 1926, ch. 406, § 9, 44 Stat. 664; June 7, 1934, ch. 426, 48 Stat. 926; June 22, 1938, ch. 575, § 1, 52 Stat. 854.)

Judicial Code, sec. 240, United States Code, 1940 Edition, Title 28, sec. 347 (a):

In any case, civil or criminal, in a circuit court of appeals, or in the United States Court of Appeals for the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether Government or other litigant, to require by certiorari, either before or after a judgment or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect, as if the cause had been brought there by unrestricted appeal. . . . (Mar. 3, 1911, ch. 231, § 240, 36 Stat. 1157; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 926.)

FEDERAL RULES OF CIVIL PROCEDURE:

Rule 62 (a) AUTOMATIC STAY; EXCEPTIONS—INJUNCTIONS, RECEIVERSHIPS, AND PATENT ACCOUNTINGS. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. . . .

Rule 73 (d) SUPERSEDEAS BOND. Whenever an appellant entitled thereto desires a stay on appeal, he may present to the court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interest, and damages as the appellate court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the court after notice and hearing and for good cause shown fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the marshal or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, the costs of the action, costs on appeal, interest, and damages for delay.

(e) FAILURE TO FILE OR INSUFFICIENCY OF BOND. If a bond on appeal or a supersedeas bond is not filed within the

time specified, or if the bond filed is found insufficient, and if the action is not yet docketed with the appellate court, a bond may be filed at such time before the action is so docketed as may be fixed by the district court. After the action is so docketed, application for leave to file a bond may be made only in the appellate court.

(f) JUDGMENT AGAINST SURETY. By entering into an appeal or supersedeas bond given pursuant to subdivisions (c) and (d) of this rule, the surety submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting his liability on the bond may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the surety if his address is known.

RULES OF THE UNITED STATES CIRCUIT COURT OF APPEALS:

Rule 10. 4. *Supersedeas Bond.* Whenever an appellant entitled thereto desires a stay on appeal, he may present to this court or the court below for its approval a supersedeas bond which shall have such surety or sureties as the court may require. The bond shall be conditioned for the satisfaction of the judgment in full together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interest, and damages as this court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs of the appeal, interest, and damages for delay, unless this court or the court below after

notice and hearing and for good cause shown fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy, as in real actions, replevin, and actions to foreclose mortgages, or when such property is in the custody of the marshal, or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, costs of the action, costs on appeal, interest, and damages for delay. (Formerly Rule 37.)

Rule 33. 1. Where a judgment for the payment of money is affirmed, and interest is properly allowable, it shall be calculated from the date of the judgment below until the same is paid, at the same rate that similar judgments bear interest in the courts of the state or territory where such judgment was rendered.

2. In all cases where an appeal delays proceedings on the judgment of the lower court, and appears to have been brought merely for delay, damages at a rate not exceeding ten per cent, in addition to interest, may be awarded upon the amount of the judgment.

3. The provisions of this rule shall be applicable to all cases in this court, except that in admiralty appeals, damages and interest may be allowed only if specially directed by the court.

GENERAL LAWS OF MASSACHUSETTS (TERCENTENARY EDITION):

Chapter 59, sec. 57: Date for payment of taxes. Interest. Taxes other than poll taxes shall be due and payable in every city, town and district in which the same are assessed,

in two equal instalments on July first and on October first of each year, and bills for the same shall be sent out not later than June fourteenth of each year. Interest shall be paid at the rate of four per cent per annum on all such taxes remaining unpaid after November first of the year in which they are payable, computed from October first of such year. Upon poll taxes unpaid when due, whether committed under section fifty-three of this chapter or under section four of chapter sixty, interest shall be paid at the rate of four per cent per annum, computed from the date when such taxes became due and payable. Bills for taxes assessed under section seventy-five shall be sent out not later than December twenty-sixth, and such taxes shall be payable not later than December thirty-first. If they remain unpaid after that date, interest shall be paid at the rate above specified, computed from December thirty-first until the day of payment, but if, in any case, the tax bill is sent out later than December twenty-sixth, said taxes shall be payable not later than ten days from the day upon which said bill is sent out, and interest shall be computed from the fifteenth day following the date when the tax becomes due. In all cases where interest is payable it shall be added to and become a part of the tax.

Chapter 60, sec. 37: Lien of tax upon real estate, levy by sale, validity of title.—Taxes assessed upon land, including those assessed under sections twelve, thirteen and fourteen of chapter fifty-nine, shall with all incidental charges and fees be a lien thereon from January first in the year of assessment. Except as provided in section sixty-one, such lien shall terminate at the expiration of two years from October first in said year, if in the meantime the estate has been alienated and the instrument alienating the same has been recorded, otherwise it shall continue until a recorded alienation thereof; but if while such lien is in force

a tax sale or taking has been made, and the deed or instrument of taking has been duly recorded within sixty days, but the sale or taking is invalid by reason of any error or irregularity in the proceedings subsequent to the assessment, the lien and also the lien or liens for any subsequent taxes or charges which have been added to the tax title account under authority of section sixty-one shall continue for ninety days after a surrender and discharge under section forty-six or a release, notice or disclaimer under sections eighty-two to eighty-four, inclusive, has been duly recorded, or for ninety days after the sale or taking has been finally adjudged invalid by a court of competent jurisdiction. If at any time while a lien established by this section is in force, a sale or taking cannot in the opinion of the collector be legally made because of any federal or state law or because of any injunction or other action of, or proceeding in, any federal or state court or because of the action of any administrative body, the lien, if the statement provided for in section thirty-seven A is filed, shall continue as provided in said section thirty-seven A, subject, however, to any lawful action under any paramount authority conferred by the constitution or laws of the United States or the constitution of the commonwealth. Said taxes, if unpaid for fourteen days after demand therefor, may, with said charges and fees, be levied by sale or taking of the real estate, if the lien or liens thereon have not terminated. No tax title and no item included in a tax title account shall be held to be invalid by reason of any error or irregularity which is neither substantial nor misleading, whether such error or irregularity occurs in the proceedings of the collector or the assessors or in the proceedings of any other official or officials charged with duties in connection with the establishment of such tax title or the inclusion of such item in the tax title account.

Chapter 107, sec. 3: Rate of interest.—If there is no agreement or provision of law for a different rate, the interest of money shall be at the rate of six dollars on each hundred for a year, but, except as provided in sections seventy-eight, ninety, ninety-two, ninety-six and one hundred of chapter one hundred and forty, it shall be lawful to pay, reserve or contract for any rate of interest or discount. No greater rate than that before mentioned shall be recovered in a suit unless the agreement to pay it is in writing.

Chapter 231, sec. 96: . . . An appeal from an order of the superior court shall be claimed within twenty days after it is made, and, except as otherwise herein provided, no judgment shall be entered while an appeal is pending. . . .